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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,335	06/02/2001	Kenneth J. Susnjara	21172	2887

7590 09/19/2007  
STEVENS, DAVIS, MILLER & MOSHER, L.L.P.  
1615 L STREET, N.W., SUITE 850  
WASHINGTON, DC 20036

EXAMINER
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ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3622

MAIL DATE	DELIVERY MODE
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09/19/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/872,335	<b>Applicant(s)</b> SUSNJARA, KENNETH J.	
	<b>Examiner</b> Raquel Alvarez	<b>Art Unit</b> 3622	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 July 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 67-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 67-70 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is in response to communication filed on 7/6/2007.
2. Claims 1-66 have been cancelled.
3. Claims 67-70 are presented for examination.

#### **Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 67-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlin (2002/0093538 hereinafter Carlin in view of Official Notice.

With respect to claims 67-68, Carlin teaches transmitting from a first party to a remote second party having access to a computer and software useable upon inputting into said computer to design and composite said composite product, generate a bill of materials for said composite product in accordance with said design (Carlin Figures 3-4 and associated text);

Inputting said software into said computer by said second party (Carlin Figures 3-4);

Operating said computer utilizing said software by said second party to generate a selected design of said composite product, a bill of materials for said designed composite product and acquiring other of said components of said

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designed composite product from a selected source (Carlin Figures 3 and 4 teaches ordering swatches and fabric from the vendors);

assembling said acquired components to form said designed composite product (Figures 3 and 4 teaches ordering swatches and fabric from the vendors); receiving invoices from the vendors [Carlin paragraphs 0234 and 0252].

With respect to a CNC machine and program for the instructions for the operation of said CNC machine to machine components and inputting said instructional program. Official Notice is taken that Computer Numerical Control (CNC) operates machine tools in the same way a skilled operator would manually, but is done automatically through stored program data. It would have been obvious to use a CNC machine and program for the instructions for the operation of said CNC machine and inputting said instructional program in order to overcome the possibilities of human error because the machine's functions are controlled by a fixed program and are not dependent on the operator's skills.

Claim 69 further recites ordering the composite product online. Official Notice is taken that it is old and well known to use various Online services such as Online ordering and the like in recent years. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included ordering the composite product online in order to reduce the cost of having to distribute software.

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Claim 70 further recites transmitting advertisements of said other components of said designed composite product. Official Notice is taken that it is old and well known in marketing or the like to offer advertisements for complimentary products based on the product purchased in order to motivate the customer to make additional purchases. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included transmitting advertisements of said other components of said designed composite product in order to obtain the above mentioned advantage.

**Response to Arguments**

6. Again, applicant argues that the reference does not qualify as prior art for the subject matter relied upon the office action. The Examiner again wants to point out that is art under 102(e) against the claim for subject matter it shares with US patent no. 7,062,722. The Examiner in the previous rejection mailed on 4/6/2007, has shown where the '722 patent teaches the claimed invention of: distributing software in designing said layouts (paragraph 2.1, col. 5, lines 4-16); transmitting electronically over the Internet selected of a first set of vendors, ordered for the purchase of the component products (Figures 3 and 4 teaches ordering swatches and fabric from the vendors); receiving invoices from the vendors (col. 18, lines 31-35 of the '722 patent).

7. The Examiner doesn't feel that another rejection solely on the '722 patent is necessary or the need to cite the reference on PTO form 892 because the Carlin reference (2002/009358) already makes references to the '722 patent from

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which it depends from. The Examiner has relied and shown where the '722 shows and teaches the instant claims **only** in order to show support for the 4/22/2000 date but the Examiner wants to keep the base of the rejection on the CIP application 2002/0093538.

8. Applicant states that although Carlin teaches selecting the component parts, it is the component product that is delivered to the user. The Examiner wants to point out that the user selects the component parts as admitted by Applicant and therefore the product consists of the parts. The finished product consists of the parts, the user receives the parts ordered and then the user assembles the product out of the parts received.

9. Applicant argues that Carlin doesn't teach generating a bill of materials for the product. The Examiner wants to point out that Carlin teaches receiving invoices for the ordered product [paragraphs 0234 and 0252].

10. With respect to Applicant's arguments that Carlin doesn't teach generating a program of instructions for operation of a CNC machine to machine components. Applicant is reminded that the claims were not rejected under the doctrine of 102 but instead were under 103.

### **Conclusion**

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory

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action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

**Point of contact**

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Raquel Alvarez  
Primary Examiner  
Art Unit 3622

R.A.  
9/4/2007